

**Parks Commercial Operations Permit Application – 2017**  
**(Fitness or Athletic Instruction, Classes, or Camps)**



**Government Data Practices Act – Classification Warning:**

All data collected, created, received, maintained or disseminated as part of this application and permitting process shall be governed by the provisions of the Minnesota Government Data Practices Act, Minn. Stat. §§ 13.01 et seq. (“the Data Practices Act”).

**Applicant Information:**

BUSINESS NAME: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE: (\_\_\_\_) \_\_\_\_\_ CELL: (\_\_\_\_) \_\_\_\_\_ FAX: (\_\_\_\_) \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

WEBSITE ADDRESS: \_\_\_\_\_

**Commercial Operations Description of Use:**

Types of services offered:

|  |
|--|
|  |
|  |
|  |
|  |

**Application Submission Date**

Applications will be accepted for review starting February 1, 2017 on a first come, first-served basis until up to thirty (30) Commercial Operators have been approved.

**(For Office Use Only)**

**APPLICATION RECEIVED BY:**

**Date:**

- |   |
|---|
| ◇ Proof of Insurance: Expiration Date:              |
| ◇ Additionally Insured Endorsement: Expiration Date |
| ◇ Defense, Indemnity and Hold Harmless Agreement    |

Commercial Operations are allowed in City parks listed below.

Estimate the average number of hours you intend to operate in each location per month:

| Location                               | Hours Per Month (Approved Parks) |     |     |     |     |     |      |     |      |     |     |     |
|--|----------------------------------|-----|-----|-----|-----|-----|------|-----|------|-----|-----|-----|
|  | Jan                              | Feb | Mar | Apr | May | Jun | July | Aug | Sept | Oct | Nov | Dec |
| Lincoln Park                           |                                  |     |     |     |     |     |      |     |      |     |     |     |
| Chester Park                           |                                  |     |     |     |     |     |      |     |      |     |     |     |
| Sister Cities Park                     |                                  |     |     |     |     |     |      |     |      |     |     |     |
| Lake Place Park                        |                                  |     |     |     |     |     |      |     |      |     |     |     |
| Leif Erikson Park                      |                                  |     |     |     |     |     |      |     |      |     |     |     |
| Brighton Beach                         |                                  |     |     |     |     |     |      |     |      |     |     |     |
| Enger Park<br>(6AM-9AM Mon-Thurs only) |                                  |     |     |     |     |     |      |     |      |     |     |     |

Completed applications are to be sent to the address below:

**Mailing address:**

City of Duluth, Parks and Recreation  
City Hall - 411 West First Street (Ground Floor)  
Duluth, MN 55802  
Attn: Kraig Decker

**Email address/Fax number**

kdecker@duluthmn.gov  
218.730.4305 (P)  
218.730.5913 (F)

I, as the duly authorized representative with authority to bind the Permittee, certify that the information submitted on this application is true and correct and that I have read and agree to abide by all Permit requirements, rules or other conditions stated herein. I agree that, if the Permittee violates or otherwise fails to abide by all Permit requirements, the City may, at its discretion, direct the Permittee to leave the permitted premises, suspend or revoke the Permit, or pursue any other appropriate remedy available under State or local law.

Permittee

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title



## PERMIT FEES, REQUIREMENTS AND RULES

### Permit Fee

\$25 per session. Payment is on a per-use basis. Fees are not pro-rated, refundable, or transferable.

- ◇ Each session is limited to two hours and a maximum group size of 30 people.
- ◇ Limited to five sessions per week.

### Commercial Operator Application Requirements

Applicant must provide documentation of the following prior to application approval:

- ◇ Completed and signed application form
- ◇ Proof of insurance as stated under Permittee Insurance Requirements
- ◇ Provide separate "Additional Insured Endorsement form"
- ◇ Execute "Defense, Indemnity and Hold Harmless Agreement"

### Permit Requirements

- ◇ After the Commercial Operations application has been approved, the approved operator must complete a reservation on the Duluth Parks & Recreation website for each session. Reservations can be made between 2 - 45 days out. Each reservation will be issued a new permit. The instructor must have this permit in his/her possession during the session to enforce its privileges. Reservations can be made at [www.duluthmn.gov/parks/reservations-permits/](http://www.duluthmn.gov/parks/reservations-permits/)
- ◇ A City authorized permit is required to conduct commercial operations for compensation in parks pursuant to Sec. 35-9(a)(2) of the code.

### Permit Rules

#### I. Definitions:

- ◇ Commercial Operations – Sec. 35-9(a)(2): No commercial enterprise of any kind, including those involving the sale or leasing of any personal property or service, shall be allowed in any public park without a permit. The director of parks and recreation may impose reasonable restrictions on hours of operation, types of goods or services sold or leased, stands and other physical apparatus used, and any other aspect of the operation he deems necessary to restrict. Such permits shall grant only nonexclusive use of park space.
- ◇ Examples of commercial operations may include, but are not limited to any commercial fitness or athletic instruction, classes, or camps.

#### 2. Commercial operations may be conducted in the following parks between the hours of 6AM – 9PM:

- ◇ Lincoln Park
- ◇ Chester Park
- ◇ Sister Cities Park
- ◇ Lake Place Park
- ◇ Leif Erikson Park
- ◇ Brighton Beach
- ◇ Enger Park (6AM-9AM - Monday – Thursday use only)

3. Special Event and Private Event Permittees have priority use of permitted parks. It is understood that Commercial Operations Permittees shall relocate to accommodate any previously permitted City activities including, but not limited to City approved community events.

4. Commercial Operators are approved on an annual basis. Applications will be accepted for review starting February 1, 2017. Completed applications will be accepted on a first-come, first-served basis until up to thirty (30) Commercial Operators have been approved.

5. A Commercial Operations Permittee is limited to no more than five permit-related uses per week with a maximum participant group size of thirty people. Each permit use cannot exceed two hours.

6. Permits issued for Commercial Operations may be revoked if Permittee fails to:

- ◇ pay all applicable City fees and charges;
- ◇ maintain current and valid proof of insurance satisfying the requirements set forth below;
- ◇ execute an Indemnity and Hold Harmless Agreement meeting the approval of the City Attorney's Office; and
- ◇ maintain any and all state or local licensure applicable to permitted operations.

7. A Commercial Operations Permittee shall keep a copy of its City-issued Permit on site during permitted operations, and shall make the Permit available for inspection by City staff upon request.

8. Permittees shall follow City staff instructions in siting or relocating commercial operations in order to avoid damage to City property and facilities, and to avoid interference with any ongoing maintenance activities.

9. Prohibited:

- ◇ Permittee shall not vend or sell goods or services within parks or trails, other than the cost of the fee to participate in the activity for that session.
- ◇ Permittee shall not use any park equipment and infrastructure, including but not limited to light poles, playground equipment, drinking fountains, public art, bleachers, pergolas, pavilions, picnic tables, benches, railings, fencing, signs, bike racks, and barbeque grills.
- ◇ Permittee shall not place any equipment or object used for fitness or athletic activity weighing more than twenty-five pounds within any City park.
- ◇ Permittee shall not store athletic, sports or other equipment within any park unless otherwise lawfully authorized to do so.
- ◇ Permittee shall not use any form of sound amplification equipment, boom boxes, bullhorns, or whistles. If sound amplification is desired, the Permittee would need to acquire a Special Event Permit pursuant to Duluth City Code Sec 35-9(a)(3).
- ◇ Commercial Operations permits do not include the permitting of water-based activities such as stand up paddleboard, kayak, or canoe guiding and tours.



## PERMITTEE INSURANCE REQUIREMENTS

### **INSURANCE AND INDEMNITY AGREEMENT BETWEEN [PERMITTEE] AND THE CITY OF DULUTH**

THIS AGREEMENT ("Agreement") is made by and between the CITY OF DULUTH, a municipal corporation under the laws of the State of Minnesota ("the City"), and [PERMITTEE] ("Permittee"), a [ENTITY TYPE] (referred to collectively hereinafter as "the Parties"). This Agreement shall be effective as of the date of execution by Permittee's duly authorized agent below.

WHEREAS, Permittee requests issuance of a Commercial Operations Permit ("Permit") from the Director of the City's Parks Division ("the Director") to conduct commercial activities using City property and facilities; and

WHEREAS, pursuant to the authority granted by Duluth City Code Sec. 35-9(a)(2), as may be amended, the Director may issue the Permit upon confirmation that Permittee has satisfied all requirements relating to the proposed activity, including (a) maintenance of an adequate policy of insurance, naming the City as an additional insured, satisfying the terms and limits set forth below, and (b) execution of this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties hereto agree as follows:

#### **ARTICLE I – INSURANCE**

I.1 Permittee shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form in limits of not less than One Million Five Hundred Thousand Dollars and No/100s (\$1,500,000.00) aggregate per occurrence for personal bodily injury and death, and limits of One Million Dollars and No/100s (\$1,000,000.00) for premises damage liability. If person limits are specified, they shall be for not less than One Million Five Hundred Thousand Dollars and No/100ths (\$1,500,000.00) per person and be for the same coverages. The City shall be named as an additional insured on the policy. Insurance shall cover:

- Public liability, including premises and operations coverage;
- Personal injury;
- Owned, non-owned and hired vehicles; and
- Contractual liability covering the indemnity obligations set forth herein;

I.2 Requirements for All Insurance.

All insurance required shall be taken out and maintained through responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota.

I.3 Representations; Certificates of Insurance.

The City does not represent or guarantee that these types or limits of coverage are adequate to protect Permittee's interests and liabilities. Permittee shall provide a Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included and shall further provide that failure to give such notice to the City will render any such change or changes in said policy or coverages ineffective as against the City.

## ARTICLE II – HOLD HARMLESS AND INDEMNITY

2.1 Permittee shall defend, indemnify and hold harmless the City, its officers, agents and employees from any and all claims, suits, demands, liability, judgments, costs, damages and expenses, including attorneys' fees, resulting from or arising out of the activities of Permittee or its employees, agents, volunteers, invitees or attendees associated with Permittee's use of City property or facilities in connection with the Permit referenced herein. Upon ten (10) days written notice, Permittee will appear and defend all claims and lawsuits against the City growing out of any action with respect to which Permittee is required to indemnify the City.

[PERMITTEE]

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

### PERMIT CONDITIONS: SUSPENSION, REVOCATION, PENALTIES, & ENFORCEMENT

#### PERMIT SUSPENSION, REVOCATION, PENALTIES, & ENFORCEMENT:

The director of parks and recreation or her authorized designee may suspend or revoke this permit for any violation of the conditions of this permit, Chapter 35 of the Code, or any other applicable local, state, or federal law. Pursuant to Section 31-3(a) of the Code, the city may further deny issuance of any subsequent permits until all applicable Code or permit requirements are met, and any fees, charges, penalties or other debts or obligations to the city are satisfied, except as may be waived pursuant to Section 31-3(b) of the Code.

Any person violating any provision of Chapter 35 or other applicable provision of the Code while engaging in a commercial enterprise pursuant to this permit shall be guilty of a misdemeanor and may be cited and fined as provided in Section 1-7 or Section 12-6 of the Code.

Notwithstanding the grant of this permit, any violation of its terms, Chapter 35, or other applicable provision of the Code is deemed a per se public nuisance authorizing the city to seek abatement through injunctive relief or any other appropriate remedy from a court of competent jurisdiction. All city approvals and permits shall be suspended until abatement of the nuisance condition(s).

Notwithstanding the grant of this permit, nothing shall preclude the city from concurrently seeking enforcement of any provision of the Code by criminal prosecution or administrative fine.

I have read and understand the information presented. I agree to the conditions and regulations set forth and understand that a Commercial Operations Permit is a privilege that under certain circumstances, may be revoked by the Parks and Recreation Division Manager.

Permittee

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name